IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 14TH NOVEMBER 2006 / 23RD KARTHIKA 1928

AS.No. 533 of 1997()

O.S.No.278/1994 of SUB COURT, MUVATTUPUZHA

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APPELLANTS: PLAINTIFFS:

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1. AMMINI, AGED 42 YEARS, D/o. KITTU, MANJANAKKUDY HOUSE, VADASSERYKARA, KOTTAPPADY VILLAGE, KOTHAMANGALAM TALUK, W/o. DAMODARAN, PALLIPPATTU HOUSE, TURAVOOR, ALUVA.

2. RATHNAMMA, AGED 36, D/o. KITTU, MAJANAKKUDY, VADASSERYKARA, KOTTAPPADY VILLAGE, KOTHAMANGALAM TALUK (W/o. NARAYANAN, KAVARAPPARAMBIL)

3. SULOCHANA, AGED 28, D/o. KITTU, MANJANAKKUDY VADASSERYKARA, KOTTAPPADY VILLAGE, KOTHAMANGALAM (W/o. SUPRAN, MEPPARA).

BY ADV. SRI.BABU KARUKAPADATH

RESPONDENTS:/ DEFENDANTS:

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1. PRABHAKARAN, S/o. KITTU, AGED 32, MANJANAKKUDY, VADASSERYKARA, KPTTAPPADY VILLAGE, KOTHAMANGALAM TALUK.

2. GOVINDAN, S/o. KITTU, AGED 44 YEARS, -DO- -DO-

3. KOUSALIA, W/o. KUNJAPPAN, AGED 53, THELAKKATTU PARAMBIL, D/o. KITTU, MANJANAKKUDY HOUSE, VADASSERYKARA, KOTTAPPADY VILLAGE, KOTHAMANGALAM.

4. KAMALU, D/o. KITTU, AGED 40 YEARS, MANJANAKKUDY, VADASSERYKARA, FOTTAPPADY VILLAGE, KOTHAMANGALAM TALUK.

5. USHA, W/o. PRABHAKARAN, AGED 30,
   -DO- -DO- -DO-

6. N.K. SUKUMARAN, AGED ABOUT 40 YEARS,
   S/o. KANNAN, NOOTTIPPADATHU, VADASSERYKARA,
   KOTTAPPADY VILLAGE, AYIROORPADAM. P.O.

7. RAMANKUTTY, S/o. KRISHNAN, AGED ABOUT 40 YEARS,
   MANJANNOOR HOUSE,
   -DO- -DO- -DO-

8. SARADA, W/o. RAMAN,AGED 39,
   -DO- -DO- -DO-

9. VARKEY, S/o. PAILY, AGED ABOUT 45 YEARS,
   PADIYKEKUDY HOUSE,
   -DO- -DO- -DO-

BY ADV. SRI.P.BALAKRISHNAN
SRI.H.SIVARAMAN
SRI.MATHEW CHERIAN

THIS APPEAL SUITS HAVING COME UP FOR ADMISSION ON 14/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN,J

A.S.No. 533 OF 1997

DATED THIS THE 14TH DAY OF NOVEMBER, 2006

JUDGMENT

This appeal arises from O.S. 278 of 1994 of the Sub Court, Muvattupuzha, which is one for partition after declaring Ext. B9 Will as invalid. O.S.No.280 of 1994, a suit for permanent prohibitory injunction on the strength of title based on Ext.B9 Will was also tried jointly with O.S.278 of 1994. The suit for partition from which this appeal arises was partly decreed. But the genuineness of Ext.B9 Will was upheld and the suit O.S.280 of 1994 was decreed on the strength of that Will.

In the absence of any appeal against the decree in O.S. 280 of 1994, the same has become final and operates as res judicata to this first appeal against the decree in O.S. 278 of 1994. Hence, this appeal is dismissed.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE

dvs

THOTTATHIL B.RADHAKRISHNAN, J

A.S.No.533 OF 1997

JUDGEMENT

DATED THIS THE 14TH DAY OF NOVEMBER,2006